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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

17 CISCO SYSTEMS, INC.,

18 Plaintiff,

19 v.

20 ARISTA NETWORKS, INC.,

21 Defendant.
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Case No. 5:14-cv-05344-BLF (NC)

**[PROPOSED] ORDER GRANTING
MOTION TO STRIKE EXPERT
OPINIONS AND TESTIMONY OF
DR. JUDITH A. CHEVALIER**

Judge: Hon. Beth Labson Freeman

Date Filed: December 5, 2014

Trial Date: November 21, 2016

The Court, having fully considered the papers and arguments presented by the parties, hereby GRANTS Arista Networks, Inc.'s Motion to Strike Expert Opinions and Testimony of Dr. Judith A. Chevalier as follows:

Based on the arguments and written submissions, the Court finds that the following portions of the "Expert Report of Judith A. Chevalier" submitted on June 23, 2016, and the "Surrebuttal Expert Report of Judith A. Chevalier" submitted on July 21, 2016, are inadmissible and excluded under Federal Rules of Evidence 702, 402, and 403, and under *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993) because they are lay opinions or summations of evidence that will not assist the trier of fact to understand the evidence or to determine a fact in issue, they are not based on sufficient facts or data, they are not based on reliable principles and methods, and/or Dr. Chevalier has not reliably applied those methods to the record evidence:

- Dr. Chevalier's "no apportionment" disgorgement claim. Surrebuttal Rpt. ¶¶ 57–58 and Exhibits 3–8, 14–18; Chevalier Depo. Tr. at 166:25-167:2, 207:20-24, 209:24-210:9, 218:25-219:13.
- Dr. Chevalier's lost-profits "Scenario 3." Opening Rpt. ¶ 78 and Exhibits 4, 7, 10; Surrebuttal Rpt. ¶¶ 57–62 and Exhibits 3, 4, 9, 13, 14, 18, 19, 23; Chevalier Depo. Tr. at 52:7-25, 122:16-127:17, 156:4-6, 173:10-16, 196:18-197:2, 197:21-24, 199:21-201:14, 202:22-204:17.

Dr. Chevalier will not be permitted to provide expert testimony regarding the foregoing opinions at trial.

IT IS SO ORDERED.

Dated: _____

HON. BETH LABSON FREEMAN